

PROVINCETOWN CONSERVATION COMMISSION

August 11, 2009

6:30 P.M.

Members Present: Dennis Minsky, Lynne Martin, Jack McMahon, David Hale and Richard Silver

Members Absent: None.

Others Present: Brian Carlson (Conservation Agent) and Ellen C. Battaglini (Recording Secretary).

PUBLIC HEARING

Chair Dennis Minsky called the Public Meeting to order at 6:31 P.M.

Site Visit: 33 Pilgrim Heights Road

PUBLIC STATEMENTS:

None.

MINUTES: The minutes will be postponed to later in the evening.

Request by the Provincetown Public Pier Corporation - Wind-generating test equipment

This agenda item is postponed.

OLD BUSINESS:

Notice of Intent

Application by **Donald E. Cote & Kenneth J. Kruse**, represented by David LaJoie, of Felco, Inc., for a **Notice of Intent** under the Provincetown Wetlands By-Law Chapter 12. The applicant proposes construction of a single family dwelling and drive within the 100' buffer zone of an isolated wetland at the property located at **33 Pilgrim Heights Road** in Provincetown. The Commission conducted a site visit at the premises.

Presentation: David LaJoie, Kenneth Kruse and Donald Cote appeared to discuss the application. The applicants submitted a sketch that addressed the Commission's concern about run-off from the stone driveway and turn-around area into the wetland. Mr. LaJoie stated that the turn-around area will be re-graded to retain run-off. The area closest to the wetland could be bermed and planted sufficiently to retard water as well. The applicants also submitted a planting plan for the property.

Public Comment: None.

Commission Discussion: The Commission questioned Mr. LaJoie, Mr. Kruse and Mr. Cote. The three-season room was discussed, as it is the portion of the structure that is closest to the wetland. After some discussion, the Commission decided that it needed a more specific a landscaping plan, from a landscape architect, which identified the invasives to be removed, what native plants will be planted and a maintenance plan. The Commission would also like a new site plan with the proposed grading changes. Brian informed the Commission that no MESA determination has been made on the project. The applicants requested a continuance to the September 22, 2009 hearing.

Lynne Martin moved to grant a continuance to the September 22, 2009 hearing, Dennis Minsky seconded and it was so voted, 5—0.

Notice of Intent

Application by **Cabral Enterprises, Inc.**, represented Peter Markunas, of Woods Hole Group, Inc., for

a **Notice of Intent** under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, §40 and the Provincetown Wetlands By-Law Chapter 12. The applicant proposes a project that will retrofit the existing structure utilizing Best management Practices. The project proposes the incorporation of collection and filtration basins at the existing storm drains and some structural improvement. Other than the proposed storm drain improvements, no other alteration is proposed under this filing. The project is located at **Fisherman's Wharf, 9 Ryder Street** in Provincetown.

Presentation: Peter Markunas appeared to discuss the application. This Notice of Intent is part of the Chapter 91 licensing process at Fisherman's Wharf. The project is a retro-fit project and will improve stormwater management at the site. There are existing open drainage grates along the pier which discharge water directly into the harbor. The wharf has an impervious concrete surface pitched to several of these drains. The proposed project will incorporate collection and filtration basins at the existing storm drains. This proposed system is designed to reduce the discharge of untreated stormwater into the harbor. Some structural improvements may be necessary to accommodate these basins. The work will be performed from above and below, the latter will utilize a barge-like vessel. The project has been reviewed and approved by the DEP and has been issued a file number. The Division of Marine Fisheries had no comment on the project and the work will not take place in the estimated habitat of an endangered species.

Public Comment: None.

Commission Discussion: The Commission questioned Mr. Markunas.

Lynne Martin moved to approve the Notice of Intent for Cabral Enterprises, Inc. for the incorporation of collection and filtration basins at the existing storm drains, with some structural improvements at Fisherman's Wharf, 9 Ryder Street with the Standard Order of Conditions and with the Special Condition that the Conservation Agent will be kept up to date on the progress of the project, Dennis Minsky seconded and it was so voted, 5-0.

SHOW CAUSE HEARING: 742 Commercial Street – construction beyond approved permit

Presentation: Pamela J. Foss and David LaJoie appeared to discuss the issue. Mr. LaJoie stated that the project involved the installation of a new access to the existing dwelling at the premises. An existing driveway that was accessed by three properties running in front of the property was to be eliminated and re-vegetated. The driveway included a paved section that came off of Route 6A to a trench drain, after which there were pervious stone pavers installed to create a turn-around. The original plan that was approved by the Commission did not include the turn-around. The re-vegetation has taken place. Any run-off from the driveway will be caught by trench drain and not impact the resource area, which is located further south across the street.

Public Comment: Katherine Bachman, an abutter stated that the work performed went beyond the original plan, including an increase in the amount of paving laid down and the installation of a stone wall not shown on that plan.

Commission Discussion: The Commission questioned Mr. LaJoie and Ms. Foss. The Commission was concerned that it was not notified of the change in the proposed project's plans, which would qualify as a Type 4 violation, which carries a \$300 fine.

Lynne martin moved to impose a Type 4 violation, with a fine of \$300, Dennis Minsky seconded and it was so voted, 4-0-1 (Jack McMahan abstaining).

DISCUSSION:

2 Commercial Street

Cliff Schorer appeared before the Commission to present and discuss his plan for replacing the existing aluminum chain-link fence on the perimeter of the property, per the Memorandum of Understanding. He is also asking for permission to place four pedestrian access gates on Province Lands Road. The fence will be changed to imitate the existing profile of the gate fence, which is also a requirement of the MOU.

The Historic District Commission has approved the design of the fence. Mr. Shorer is looking for guidance, including any construction limitations, from the Commission concerning the installation of the fence so as to cause as little disturbance as possible to the resource area on the property. He is also asking if the access gates would violate the spirit of the question of whether pedestrian access to the property will be granted in the future. Mr. Schorer and the Commission discussed the pedestrian access gates. Mr. Schorer intends to replace the existing fence with a new type of spike fencing and posts, and, in the process, would like to take into consideration where those pedestrian entrances might be located in the future. A discussion of each of those gates will also be included in the Notices of Intent which will eventually be filed for those four parcels. The new fence will be elevated between 6" and 10" to allow for animal movement. On the inside of the perimeter of the property, the existing chain-link fence will be replaced with a new black vinyl-coated chain-link fence and posts. The existing main gate will be repaired as well. After much discussion, the Commission concluded that the gates and pedestrian access would be discussed when the respective NOIs were filed. The fence and gates themselves could be dealt with as an Administrative Review, however the use of the gates would be a separate issue and not subject to an AR.

Mr. Schorer also submitted and discussed a formal surveyed landscaping plan that he had created for the property, which incorporates the previous informal unsurveyed landscaping plan, drawn by Paul Shea, approved by the Commission. The proposal, also per the MOU, includes the creation of a 40' buffer from Province Lands Road and removing invasives from that area, identifying native species to remain and additional plantings of new native, salt-tolerant species to stabilize the existing bank, including American beach grass and Seaside golden rod. Much of the work will be done by hand and coincide with the replacement of the fence. Mr. Schorer is seeking to replace the old landscaping plan with the new landscaping plan. The existing Order of Conditions refers to a landscaping plan, but that plan was never recorded with the Order. The Commission concluded that an Amended Order of Conditions would need to be issued for the property, wherein the new landscaping plan would replace the old and be recorded. The Commission agreed to act expeditiously.

333R Commercial Street – Chapter 91 License

William N. Rogers, II and Bill Bond appeared to discuss the revised plans for this property. After submitting the site plan to the State for approval under Chapter 91, the property owner was required to amend the plans previously approved by the Commission. Mr. Rogers is requesting an approval of the revised plans. The State is requiring the implementation of a working waterfront access area at the site. Mr. Bond stated that the original proposal for the area located 10' above the Mean High Water mark was for Rosa rugosa and beach grass plantings. However, the State now is requiring a 35' area above the MHW for access to a working waterfront, without plantings. The next 15' above that area would be an 'activation waterfront', potentially for the location of a kayak, or other boat, rental company and the installation of dinghy tie-ups along the beach at 5' intervals, parallel to the MHW. The area above this would be partially planted with Rosa rugosa and beach grass. Mr. Bond is also proposing to place a split-rail fence, with openings, on the beach to impede trucks, but not people or boats, because parking on the beach has been a chronic issue at this location. He is seeking the Commission's approval to install a split-rail fence, if he can obtain the State's authorization, and the approval of a revised site and planting plan. The Order of Conditions and site plan have not yet been recorded. Brian will contact Lou Gitto about how to proceed with this issue.

12 Somerset Road – Administrative Review

Jeffrey Albright, the owner of the property, seeks to expand the driveway on the site and is requesting that the issue be dealt with by the Commission as an Administrative Review. An abutter to the property is protesting the request. The Commission examined and discussed the supplemental site plan dated July 28, 2009. After much discussion, the Commission decided to request that the Mr. Albright file an

application for an amended Order of Conditions.

Browne Street Community Garden Draft Management Plan

The Commission discussed the draft preliminary Browne Street Community Garden and Conservation Park Land Management Plan, dated July 27, 2009. Brian will submit the Plan to the state in order to get the grant money released. It also discussed the selection of an advisory group of 5-7 members, chaired by a Conservation Commissioner, and guided by specific directives and tasks from the Commission. This group will begin the process of establishing the Community Gardens. The Commissioners will develop lists of people they feel are qualified to sit on the advisory group and send them to Brian. *Lynne Martin moved to nominate David Hale to be the chairman of the Browne Street Community Gardens advisory group, Richard Silver seconded and it was so voted, 5-0.*

MINUTES: March 3, 2009 – *Lynne Martin moved to approve the language as written, Dennis Minsky seconded and it was so voted, 4-0-1 (Richard Silver abstaining).*

March 10, 2009 – *Jack McMahon moved to approve the language as written, David Hale seconded and it was so voted, 3-0-2 (Lynne Martin and Richard Silver abstaining).*

April 14, 2009 – *Lynne Martin moved to approve the language as written, Dennis Minsky seconded and it was so voted, 4-0-1 (David Hale abstaining).*

May 12, 2009 – *Lynne Martin moved to approve the language as written, David Hale seconded and it was so voted, 3-0-2 (Jack McMahon and Richard Silver abstaining).*

June 16, 2009 – *David Hale moved to approve the language as written, Dennis Minsky seconded and it was so voted, 5-0.*

July 21, 2009 – *Lynne Martin moved to approve the language as written, Dennis Minsky seconded and it was so voted, 4-0-1 (Richard Silver abstaining).*

ANY OTHER BUSINESS:

Dennis named off several issues that needed to be discussed by the Commission, including a Harbour Drive update, the bleach used on lobsters, the increase in phragmites at Shank Painter Pond, beach raking, funding issues and the GIS progress.

Low Impact Development:

Brian asked if the Commission would like to vote in support of the Low Impact Development ideas and their utilization in the Town of Provincetown.

Dennis Minsky moved to support and implement LID in the Town of Provincetown, Jack McMahon seconded and it was so voted, 5-0.

Local Regulations:

The Commission will hold a hearing on Tuesday, September 8, 2009 to discuss Local Regulation definitions.

ADJOURNMENT: *Lynne Martin moved to adjourn at 10:00 P.M. and it was so voted unanimously.*

These minutes were approved by a vote of the Conservation Commission at their meeting on _____, 2009.

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on _____, 2009
Dennis Minsky, Chair